

Mark Kennedy Open Letter Addressing Faculty Letter

Please allow me to address the assertions that some University of Colorado faculty members raised in a letter that they distributed yesterday. With all due respect to them, the letter identifies no “ethical misconduct” but instead misconstrues my record and responses to questions from last week’s open forums.

Before addressing these specific allegations, I must begin by stating that there is nothing more important to me than maintaining high ethical standards. I have always and will always remain committed to providing strong ethical leadership. I am committed to working closely with the shared governance bodies of CU if affirmed as its next President.

1. Tribal college programs

Letter Assertion: Kennedy’s CV says that he personally met with all tribal colleges regarding 2+2 programs and that such programs were in place with all tribal colleges.

Facts: I would suggest that anyone wanting to verify what my CV can review the actual language. I never asserted that I personally met with tribal colleges on 2+2 programs. On Pages 6-7 of the CV, I refer to working towards goals through “captains, program managers and teams.” Like all university presidents, my staff and I work collaboratively to achieve goals, such as meeting with the leaders at tribal colleges and promoting diversity across the campus. When we make “progress on the plan” it does not suggest that we have completed all of the elements of the plan, and ~~am-I am~~ am pleased that we have established a 2+2-program with Cankdeska Cikana Community College as stated in my CV. We will continue to work with other tribal colleges to enact these programs.

CV Excerpt:

Academic Year 2017-18

- o **Advanced OneUND Strategic Plan.** A key priority for FY 2018 was to make progress in pressing forward on with our OneUND Strategic Plan. Towards that end, I ensured that captains, program managers and teams were established for each of the plan's seven goals. I met with the captains and program managers monthly and they reported to the President's Cabinet monthly to ensure progress towards UND's goals were being achieved. Progress on the plan included:
 - o **Goal 5 - Diversity and Inclusion:** Met with all tribal colleges to establish 2+2 Finish in 4 programs for priority degrees, beginning with Cankdeska Cikana Community College;

2. One Colorado

Letter Assertion: Kennedy did not reach out to One Colorado to “counsel and advise him,” but instead One Colorado had reached out to set up the meeting with him through Regent Kroll.

Fact: While One Colorado through Regent Kroll asked to arrange a meeting with me, during the meeting I asked One Colorado's leaders to join a group to “counsel and advise me” on an ongoing basis regarding LGBTQ+ matters.

3. Graduation Rates

Letter Assertion: Kennedy was inaccurate in saying, “our diverse communities have had the same increase in graduation rates under his leadership as other students” and that UND's published numbers “show results are mixed at best.”

Fact: UND's published numbers show that in the two-year period ending in June 2018 ~~[NEED YEARS]~~ the overall campus graduation rate increased 8%. In the same period, nearly all diverse communities increased by a greater amount: African-American 14%, , Hispanic 17%, American Indian 11%, Mixed Race 14%. While the graduation rates for Asian and Non-Resident Aliens did not increase by more than the average rate, I am proud of the academic achievements of our diverse communities

4. Political Activities while in Academia

Letter Assertion: Kennedy's serving as treasurer of Minnesotan Tim Pawlenty's President race negates his statement that his “9-year track record in academia is starkly different from my voting record.”

Fact: I note that this topic was discussed at last week's CU Denver Open Forum. My involvement with Tim Pawlenty's presidential campaign started before I accepted any position within higher education administration. Mr. Pawlenty dropped out of the Presidential Race in August of 2011, a little less than a year before Barack Obama first publicly changed his stance on same gender marriage in May of 2012.

None of this negates the fact that, during my tenure in higher education, I have been an inclusive leader, and I have supported the LGBTQ+ community, both in policy and in action. My former colleague at George Washington University, Roberto Izurieta, stated in a public letter, my "life is testimony to having no room for discrimination or prejudice." I remain committed to being a leader for all. CU students, faculty, staff and members of our community will have my full support and respect no matter who they love or how they identify.

5. Failure to disclose a pending lawsuit and his position on Title IX

Letter Assertion: Kennedy was asked what "matters he omitted from his CV that might cause potential harm to CU" and did not disclose that UND is currently being sued for Title IX violations.

Fact: I disclosed information that related to me personally in my application, rather than lawsuits against the University of North Dakota or the North Dakota State University system. While it is true that the North Dakota State University System is currently involved in a lawsuit related to the termination of the University of North Dakota's women's hockey program, that lawsuit could not cause any harm to the University of Colorado. I supported the difficult decision to terminate the women's hockey program, but am confident that the decision was not just legal but necessary to meet our fiscal obligations.

Letter Assertion. "At the Boulder forum, Kennedy was specifically asked 'Can you tell us which proposed revisions [to Title IX] you support and which you oppose?' He declined to answer."

Fact: As the Boulder Daily Camera reported on April 27, I did answer. Quoting the Camera:

In response, Kennedy said, "To my understanding, this has already been debated and discussed at system level," adding

he would work with the CU Board of Regents to respond to such policies.

Kennedy on Friday said at the University of North Dakota, they decided “that that says what we have to do, not what we can do.”

“We can do more than the law requires us to do,” he said.

To be clearer, I am committed to taking whatever actions are lawful to preserve the University of Colorado’s ability to fairly and consistent investigate sexual misconduct and redress the harm that it causes to our community. Sexual misconduct, whether perpetrated by or committed against any member of the community, undermines our efforts to build an inclusive community. Even if the Department of Education takes the position that universities are not obligated to investigate sexual misconduct that occurs off campus, I would take the same position that I have at the University of North Dakota, which is that we must investigate sexual misconduct that occurs off campus to the fullest extent of our ability.

Letter Assertion: Reports in both the Daily Camera and Grand Forks Herald make clear that under Mark’s leadership UND has maintained a definition of Title IX and employs practices that make it harder for victims to seek justice—a definition and practice which the CU community has rejected through its policies.

Fact: The letter does not specify the definitions and practices where the authors believe that the University of North Dakota’s practices are weaker than the University of Colorado. If anyone questions the breadth of our commitment, I would ask them to look first at the **University of North Dakota’s website, which states** UND prohibits discrimination and harassment of students, faculty staff and visitors based upon sex. Sexual harassment is a form of sex discrimination and includes sexual violence, such as rape, dating violence, domestic violence, stalking, sexual abuse, sexual assault, and sexual coercion. Prohibited harassment includes:

- **Acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex, even if those acts do not involve conduct of a sexual nature.**
- **Sex-based harassment by those of the same sex.**
- **Discriminatory sex stereotyping and harassment of GLBTQ individuals.**
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- **Sexual violence.**
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Sex-based harassment by those of the same sex.

Discriminatory sex stereotyping and harassment of GLBTQ individuals.

Sexual violence.

As I have said on several occasions and said during my opening statement at the Boulder Open Forum, I would oppose CU's benefits or policies going backwards. I support CU's policies regarding Title IX.

6. Failure to acknowledge decreased fundraising and donor alienation

Letter Assertion: Failure to acknowledge decreased fundraising.

Fact: The letter includes assertions that I discussed with the Faculty Council in our April 22 meeting. The assertions being made here do not account for our current year-to-date fundraising when combined with a recently, widely reported \$20 million anonymous gift for UND's new business school, when finalized would representwill result in a record fundraising year.

Letter Assertion: Failure to acknowledge donor alienation.

Fact: When I completed the candidate questionnaire and applied for the presidency at the University of Colorado, I acknowledged a challenging relationship with a major donor of the University of North Dakota. The multi-decade dispute with the Engelstad Foundation centered on the NCAA mandated dropping of UND's Sioux nickname was discussed at the April 22 Open Forum. ~~I had not specifically addressed~~ conversations with some donors who supported

the men's' golf team continue towards the end of deferring the program's termination by a previous president., but do not believe they are indicative of donor alientation..

7. Refusal to take responsibility for voting against funding for HBCU's

Letter Assertion: Mark did not support an increase in funding for Historically Black Colleges during his tenure in Congress.

Fact: On each of the five votes that actually funded Historically Black Colleges, I voted yes, because promoting diversity has always been important to me. During my six years in Congress, funding for Historically Black Colleges increased 29%— from \$185 million to \$238 million.

Fiscal Year	Strengthening HBCU \$ Amount (ED List)	Bill Funding the Department of Education (<u>CRS List</u>)	MRK Vote
FY01	\$185 Million	<u>H.R. 4577</u> - Consolidated Appropriations Act, 2001 (Enacted: 12/21/00)	-
FY02	\$206 Million	<u>H.R. 3061</u> - Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002	<u>YES</u>
FY03	\$214 Million	<u>H.J.Res. 2</u> - Consolidated Appropriations Resolution, 2003	<u>YES</u>
FY04	\$275.9 Million	<u>H.R. 2673</u> - Consolidated Appropriations Act, 2004	<u>YES</u>
FY05	\$238.6 Million	<u>H.R. 4818</u> - Consolidated Appropriations Act, 2005	<u>YES</u>
FY06	\$238.1 Million	<u>H.R. 3010</u> - Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006	<u>YES</u>
FY07	\$238.1 Million	<u>H.J.Res. 20</u> - Revised Continuing Appropriations Resolution, 2007 (Enacted: 01/31/07)	No House Vote in 2006

Letter Assertion: But the record is clear that Mr. Kennedy voted against legislation that would have increased funding for HBCUs as well as tribal colleges HBCUs (e.g., his March 2006 vote against a revision of the Reverse the Raid on Student Aid Act [Bill HR 609, Amendment 772] that sought to improve graduation rates at HBCUs).

Fact: It is misleading to say that this particular vote was ~~for or~~ ~~against~~ about **Historically Black Colleges and Universities. It was one provision in a comprehensive a-substitute for the bill to reauthorize federal financial aid that passed with my support. Some Republicans opposed extending federal financial aid. I voted for it reflecting my lifelong support for financial aid for higher education. My vote help to preserve the availability of Pell grants, as the substitute bill would have lowered the maximum award. As a primary source financial aid for lower income students, Pell grants are essential to expanding the benefits that a college degree can provide.**

8. Pomona letter and issues related to DACA

Letter Assertion: The faculty statement refers to a letter published in the Grand Forks Herald. In that letter, a student asked me to sign Pomona College's "Statement in Support of the Deferred Action for Childhood Arrivals (DACA) Program.

Fact: When I was asked about the Pomona College letter in my conversation with the Faculty Council last week, I did not immediately recognize the Pomona letter as pertaining to DACA students. But it does not lessen the commitment I would bring toward protecting CU's undocumented students and employees. Unlike the University of North Dakota, the University of Colorado has a significant number of students who benefit from both the DACA program and the ASSET tuition classification. I support these programs and will advocate at both the state and federal levels on behalf of undocumented students and employees.

Again, thank you for the opportunity to clarify these matters. I look forward to working with the faculty shared governance groups if affirmed as CU's next President.